

the special pay under this subparagraph shall not be less than 12 times the monthly special pay then paid to Commissioned Officers entitled to special pay for duty involving intimate contact with persons who have Hansen's disease. (As of October 24, 1985, that monthly rate was \$110.)

(c) An officer or employee may be paid special pay for any pay period, under paragraphs (a) and (b) of this section, only to the extent that it does not cause his or her aggregate pay for that pay period to exceed the biweekly rate of basic pay for Level V of the Executive Schedule. As used in this paragraph, "aggregate pay" comprises basic pay, this special pay, and premiums for overtime, nightwork, irregular duty, standby status, and Sunday or holiday work.

[50 FR 43146, Oct. 24, 1985]

SPECIAL CONSULTANTS

§ 22.3 Appointment of special consultants.

(a) When the Public Health Service requires the services of consultants who cannot be obtained when needed through regular Civil Service appointment or under the compensation provisions of the Classification Act of 1949, special consultants to assist and advise in the operations of the Service may be appointed, subject to the provisions of the following paragraphs and in accordance with such instructions as may be issued from time to time by the Secretary of Health and Human Services.

(b) Appointments, pursuant to the provisions of this section, may be made by those officials of the Service to whom authority has been delegated by the Secretary or his designee.

(c) The per diem or other rates of compensation shall be fixed by the appointing officer in accordance with criteria established by the Surgeon General.

(Sec. 208(c), 58 Stat. 686, as amended; 42 U.S.C. 209(e); sec. 207(f), 58 Stat. 686 as amended by 62 Stat. 40; 42 U.S.C. 209(f))

[21 FR 9821, Dec. 12, 1956, as amended at 31 FR 12939, Oct. 5, 1966]

§ 22.5 Leave without pay while on detail.

The Secretary or his delegate may, pursuant to section 214(d) of the Public Health Service Act, 42 U.S.C. 215(d), and with the consent of the officer or employee concerned, arrange, through agreements or otherwise, for a civilian officer or employee of the Public Health Service to be placed on leave without pay for the period of a detail to a State, a subdivision thereof, or a private non-profit institution and be paid by the non-Federal organization. Such an arrangement may be for a period of not to exceed 2 years, but may be extended for additional periods of not to exceed 2 years each.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216)

[33 FR 18981, Dec. 20, 1968]

PART 23—NATIONAL HEALTH SERVICE CORPS

Subpart A—Assignment of National Health Service Corps Personnel

Sec.

23.1 To what entities does this regulation apply?

23.2 Definitions.

23.3 What entities are eligible to apply for assignment?

23.4 How must an entity apply for assignment?

23.5 What are the criteria for deciding which applications for assignment will be approved?

23.6 What are the criteria for determining the entities to which National Health Service Corps personnel will be assigned?

23.7 What must an entity agree to do before the assignment is made?

23.8 What operational requirements apply to an entity to which National Health Service Corps personnel are assigned?

23.9 What must an entity to which National Health Service Corps personnel are assigned (*i.e.*, a National Health Service Corps site) charge for the provision of health services by assigned personnel?

23.10 Under what circumstances may a National Health Service Corps site's reimbursement obligation to the Federal Government be waived?

23.11 Under what circumstances may the Secretary sell equipment or other property of the United States used by the National Health Service Corps site?

23.12 Who will supervise and control the assigned personnel?

§ 23.1

42 CFR Ch. I (10–1–13 Edition)

23.13 What nondiscrimination requirements apply to National Health Service Corps sites?

Subpart B—Private Practice Special Loans for Former Corps Members

- 23.21 Definitions.
23.22 What is the purpose of a private practice loan?
23.23 Who is eligible to receive a private practice option loan?
23.24 In what amounts are loans made?
23.25 How will interest rates for loans be determined?
23.26 How is the loan repaid?
23.27 What happens if scheduled payments are late?
23.28 What events constitute default?
23.29 What happens in the case of a default?
23.30 May the loan be prepaid?
23.31 May loan payments be postponed or waived?
23.32 What conditions are imposed on the use of the loan funds?
23.33 What security must be given for these loans?
23.34 What other conditions are imposed?
23.35 What criteria are used in making loans?

Subpart C—Private Startup Loans

23.41 What conditions are applicable to loans under this subpart?

AUTHORITY: Secs. 333, 338E(c), and 338C(e)(1), Public Health Service Act, 90 Stat. 2272, as amended, 95 Stat. 905, 97 Stat. 1345 (42 U.S.C. 254f *et seq.*), 95 Stat. 912 (42 U.S.C. 254p(c)), 95 Stat. 910 (42 U.S.C. 254n(e)(1)).

SOURCE: 45 FR 12790, Feb. 27, 1980, unless otherwise noted.

Subpart A—Assignment of National Health Service Corps Personnel

§ 23.1 To what entities does this regulation apply?

This regulation applies to the assignment of National Health Service Corps personnel under section 333 *et seq.* of the Public Health Service Act (42 U.S.C. 254f) to provide health services in or to health manpower shortage areas as designated under section 332 of the Public Health Service Act (42 U.S.C. 254e).

§ 23.2 Definitions.

As used in this subpart:

Act means the Public Health Service Act, as amended.

Assigned National Health Service Corps personnel or *Corps personnel* means health personnel of the Regular and Reserve Corps of the Public Health Service Commissioned Corps and civilian personnel as designated by the Secretary including, but not limited to, physicians, dentists, nurses, and other health professions personnel who are assigned under section 333 of the Act and this regulation.

Health manpower shortage area means the geographic area, the population group, the public or nonprofit private medical facility or any other public facility which has been determined by the Secretary to have a shortage of health manpower under section 332 of the Act and its implementing regulation (42 CFR part 5).

National Health Service Corps site means the entity to which personnel have been assigned under section 333 of the Act and this regulation to provide health services in or to health manpower shortage area.

Nonprofit private entity means an entity which may not lawfully hold or use any part of its net earnings to the benefit of any private shareholder or individual and which does not hold or use its net earnings for that purpose.

Secretary means the Secretary of Health and Human Services and any other officer or employee of that Department to whom the authority involved has been delegated.

§ 23.3 What entities are eligible to apply for assignment?

Any public or nonprofit private entity which is located in a health manpower shortage area, or has a demonstrated interest in the shortage area, may apply for the assignment of National Health Service Corps personnel.

§ 23.4 How must an entity apply for assignment?

(a) An application for the assignment of National Health Service Corps personnel must be submitted to the Secretary by an eligible applicant in the form and at the time prescribed by the

Secretary.¹ The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by law, the Act, this regulation, and any additional conditions of assignment imposed under these authorities.

(b) In addition to other pertinent information required by the Secretary, an application for the assignment of Corps personnel must include—

(1) A description of the applicant's overall organizational structure;

(2) A justification of the request for the assignment of personnel based upon the needs of the health manpower shortage area;

(3) A description of the applicant's financial plan for operating the National Health Service Corps site including a proposed budget, sources of non-Federal support obtained, and the proposed expenditures for obtaining adequate support staff, equipment and supplies;

(4) A list of the proposed fees and discounted fees to be charged for the provision of health services; and

(5) If an entity wishes to request an interest free loan (not to exceed \$50,000) under section 335(c) of the Act to assist the applicant in establishing the practice of the assigned National Health Service Corps personnel, a detailed justification of the amount requested must be included.

(c) An application for assignment must include evidence that the applicant has provided a copy of the completed application for review to (1) each health systems agency designated under section 1515 of the Act for the health service area which includes all or part of the health manpower shortage area for which an assignment of National Health Service Corps personnel is sought or (2) if no health systems agency has been designated for such a health service area, to each State health planning and development agency designated under section 1521 of the Act for each State which includes all or part of the health manpower shortage area for which an assignment

of National Health Service Corps personnel is sought.

(d) If an application for assignment is filed by an applicant which had previously been assigned National Health Service Corps personnel under an agreement entered into under section 329 of the Act as in effect before October 1, 1977, or under section 334 of the Act, the applicant must provide the information the Secretary considers necessary to make the determinations required by section 333(a)(1)(D) of the Act.

[45 FR 12790, Feb. 27, 1980, as amended at 51 FR 31948, Sept. 8, 1986]

§ 23.5 What are the criteria for deciding which applications for assignment will be approved?

(a) In approving or disapproving an application for assignment of Corps personnel, the Secretary will consider, among other pertinent factors:

(1) The applicant's ability and plans to meet the operational requirements in § 23.8.

(2) The administrative and managerial capability of the applicant.

(3) The soundness of the applicant's financial plan for operating the National Health Service Corps site.

(4) The extent to which community resources will be used in operating the National Health Service Corps site.

(5) Comments received from any designated health systems agency or any designated State health planning and development agency to which an application was submitted for review under § 23.4(c).

(6) Comments received from health professional societies serving the health manpower shortage area.

(b) Special consideration for the assignment of Corps personnel will be given to the entity which is located in a health manpower shortage area over an entity which is not located in a health manpower shortage area but has a demonstrated interest in it.

§ 23.6 What are the criteria for determining the entities to which National Health Service Corps personnel will be assigned?

(a) The Secretary may, upon approving an application for the assignment of personnel and after entering into an

¹ Applications and instructions may be obtained from Regional Offices of the Department of Health and Human Services at the addresses set forth at 45 CFR 5.31(b).

§ 23.7

agreement with an applicant under § 23.7, assign National Health Service Corps personnel to provide health services in or to a health manpower shortage area.

(b) In assigning National Health Service Corps personnel to serve in a health manpower shortage area, the Secretary will seek to assign personnel who have those characteristics which will increase the probability of their remaining to serve in the health manpower shortage area upon completion of the period of assignment. In addition, the Secretary will apply a weighted-value system in which the first factor listed below is assigned the greatest weight and the second, and third factors are assigned lesser weights in descending order:

(1) The need of the health manpower shortage area as determined by criteria established under section 332(b) of the Act.

(2) The willingness of individuals, government agencies, or health entities within the health manpower shortage area to cooperate with the National Health Service Corps in providing effective health services.

(3) The comments of health professional societies serving the health manpower shortage area.

[45 FR 12790, Feb. 27, 1980, as amended at 51 FR 31948, Sept. 8, 1986]

§ 23.7 What must an entity agree to do before the assignment is made?

(a) *Requirements.* To carry out the purposes of section 334 of the Act, each National Health Service Corps site must enter into an agreement with the Secretary under which the site agrees to:

(1) Be responsible for charging for health services provided by assigned National Health Service Corps personnel;

(2) Take reasonable action for the collection of the charges for those health services;

(3) Reimburse the United States the sums required under section 334 of the Act; and

(4) Prepare and submit an annual report. The agreement will set forth the period of assignment (not to exceed 4 years), the number and type of Corps personnel to be assigned to the site,

42 CFR Ch. I (10–1–13 Edition)

and other requirements which the Secretary determines necessary to carry out the purposes of the Act.

(b) *Termination.* An agreement entered into under this section may be terminated by either party on 30-days written notice or modified by mutual consent consistent with section 333 of the Act.

[45 FR 12790, Feb. 27, 1980, as amended at 51 FR 31948, Sept. 8, 1986]

§ 23.8 What operational requirements apply to an entity to which National Health Service Corps personnel are assigned?

Each National Health Service Corps site must:

(a) Operate a health care delivery system within a planned or existing community structure to assure:

(1) The provision of high quality comprehensive health care;

(2) To the extent feasible, full professional health care coverage for the health manpower shortage area;

(3) Continuum of care; and

(4) The availability and accessibility of secondary and tertiary health care (the two more sophisticated levels of health care beyond primary care);

(b) Establish and maintain a patient record system;

(c) Implement a system for maintaining the confidentiality of patient records;

(d) Meet the requirements of applicable fire and safety codes;

(e) Develop, to the extent feasible, linkages with other health care facilities for the provision of services which supplement or complement the services furnished by the assigned Corps personnel;

(f) Operate a quality assurance system which meets the requirements of 42 CFR 51c.303(c) for the establishment and operation of a quality assurance system in a community health center; and

(g) Establish basic data, cost accounting, and management information and reporting systems as prescribed by the Secretary.

§ 23.9 What must an entity to which National Health Service Corps personnel are assigned (i.e., a National Health Service Corps site) charge for the provision of health services by assigned personnel?

(a) Except as provided in paragraph (b) of this section, individuals receiving services from assigned National Health Service Corps personnel must be charged on a fee-for-service or other basis at a rate which is computed to permit recovery of the value of the services and is approved by the Secretary.

(b) In determining whether to approve fees to be charged for health services, the Secretary will consider: The costs to the National Health Service Corps of providing the health services; the costs to the health manpower shortage area for providing the services; and the charges for similar services by other practitioners or facilities in or nearby the health manpower shortage area. However, if assigned National Health Service Corps personnel are providing services within the framework of an established health services delivery system, the Secretary may approve the fees charged under that system without regard to the foregoing factors.

(c)(1) No charge or a nominal charge will be made for health services provided by assigned National Health Service Corps personnel to individuals within the health manpower shortage area with annual incomes at or below the "CSA Income Poverty Guidelines" (45 CFR 1060.2). However, no individual will be denied health services based upon inability to pay for the services. Any individual who has an annual income above the "CSA Income Poverty Guidelines," but whose income does not exceed 200 percent of the CSA levels, will receive health services at a nominal charge. However, charges will be made for services to the extent that payment will be made by a third party which is authorized or under legal obligation to pay the charges.

(2) The provisions of this paragraph also apply with respect to services provided by an individual who is fulfilling an NHSC scholarship obligation under section 753 or who received a special grant under section 755.

§ 23.10 Under what circumstances may a National Health Service Corps site's reimbursement obligation to the Federal Government be waived?

(a) The Secretary may waive in whole or in part the reimbursement requirements of section 334(a)(3) of the Act if he determines that:

(1) The National Health Service Corps site is financially unable to meet the reimbursement requirements or that compliance with those requirements will unreasonably limit the ability of the site to adequately support the provision of services by assigned Corps personnel. In making these determinations, the Secretary will consider—

(i) The costs necessary to adequately support the health services provided by the assigned National Health Service Corps personnel and the income and financial resources available to meet the costs;

(ii) The ability of the applicant to obtain credit from suppliers, lending institutions, private organizations and individuals;

(iii) The need of the health manpower shortage area for health services; and

(iv) The extent to which the National Health Service Corps site utilizes health professions personnel.

(2) A significant percentage of the individuals who are located in the health manpower shortage area and are receiving the health services of the assigned National Health Service Corps personnel are elderly, living in poverty, or have other characteristics which indicate an inability to pay. For purposes of this section, "elderly" means persons 65 years or older and the "CSA Income Poverty Guidelines" will be used as the standard for determining whether individuals are living in poverty. Other characteristics indicating inability to pay include, but are not to be limited to, the ratio of unemployment in the health manpower shortage area and the area's cost-of-living index.

(b) The Secretary may waive in whole or in part the reimbursement requirements of section 334(f)(1) of the Act if he or she determines that the National Health Service Corps site is a small health center (as defined by section 334(f)(5) of the Act) that needs all

§ 23.11

or part of the amount otherwise payable to—

(1) Expand or improve its provision of health services;

(2) Increase the number of individuals served;

(3) Renovate or modernize facilities for its provision of health services;

(4) Improve the administration of its health service programs; or

(5) Establish a financial reserve to assure its ability to continue providing health services;

(c) Where the Secretary determines that a National Health Service Corps site is eligible for a waiver under paragraph (a) (1) or (2) of this section, the Secretary may waive the application of the reimbursement requirements of section 334(a)(3) of the Act and apply the reimbursement requirements of section 334(f)(1) of the Act. The Secretary may waive in whole or in part the reimbursement requirements of section 334(f)(1) for such a site if he or she determines that the National Health Service Corps site meets the requirements of paragraph (a)(1) of this section. Funds retained by a National Health Service Corps site as a result of such waiver must be used for the purposes set forth in paragraphs (b) (1) through (5) of this section.

(d) Requests for a prospective or retrospective waiver must be made at the time and in the manner and contain the documentation prescribed by the Secretary.

[45 FR 12790, Feb. 27, 1980, as amended at 51 FR 31948, Sept. 8, 1986]

§ 23.11 Under what circumstances may the Secretary sell equipment or other property of the United States used by the National Health Service Corps site?

(a) Upon expiration of the assignment of all Corps personnel to a health manpower shortage area, the Secretary may sell equipment and other property of the United States used by the assigned personnel. The equipment may be sold at the fair market value or less than the fair market value to any entity providing health services in or to a health manpower shortage area if the Secretary determines that an entity is unable to pay the fair market value. In determining whether an entity is fi-

42 CFR Ch. I (10–1–13 Edition)

nancially unable to purchase equipment or property at fair market value, the Secretary will consider (1) the present financial resources of the entity available to purchase the equipment or property based upon its current liabilities, and (2) the entity's ability to obtain the funds necessary to purchase the equipment or property. However, the Secretary will not sell the equipment or property for less than fair market value to a profitmaking organization unless the organization gives reasonable assurance that it will use the equipment or property to provide health services in or to the health manpower shortage area.

(b) The Secretary will give priority to sales to an entity providing reasonable assurance that it will use the equipment or property for the purpose of retaining within the health manpower shortage area National Health Service Corps personnel who have completed their assignments.

§ 23.12 Who will supervise and control the assigned personnel?

Assigned National Health Service Corps personnel will at all times remain under the direct supervision and control of the Secretary. Observance of institutional rules and regulations by the assigned personnel is a mere incident of the performance of their Federal functions and does not alter their direct professional and administrative responsibility to the Secretary.

§ 23.13 What nondiscrimination requirements apply to National Health Service Corps sites?

National Health Service Corps sites are advised that in addition to complying with the terms and conditions of this regulation, the following laws and regulations are applicable—

(a) Title VI of the Civil Rights Act of 1964 (43 U.S.C. 2000d *et seq.*) and its implementing regulations, 45 CFR part 80 (prohibiting discrimination in federally assisted programs on the grounds of race, color, or national origin); and

(b) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulations, 45 CFR part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap).

Public Health Service, HHS

§ 23.27

(c) The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*) and its implementing regulations, 45 CFR part 91 (prohibiting nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance).

[45 FR 12790, Feb. 27, 1980, as amended at 49 FR 38109, Sept. 27, 1984]

Subpart B—Private Practice Special Loans for Former Corps Members

SOURCE: 51 FR 31948, Sept. 8, 1986, unless otherwise noted.

§ 23.21 Definitions.

As used in this subpart, terms have the same meanings as those given to them in subpart A, § 23.2. In addition:

National Health Service Corps scholarship recipient means an individual receiving a scholarship under the Public Health and National Health Service Corps Scholarship Training Program authorized by section 225 of the Act as in effect on September 30, 1977, and repealed on October 1, 1977, or a scholarship under the NHSC Scholarship Program authorized by section 338A of the Act, formerly section 751 of the Act.

Private full-time clinical practice means the provision of ambulatory clinical services for a minimum of 40 hours per week for at least 45 weeks a year, including the provision of hospital coverage services appropriate to meet the needs of patients treated and to assure continuity of care. The 40 hours per week must be performed in no less than 4 days per week with no more than 12 hours of work being performed in any 24-hour period.

§ 23.22 What is the purpose of a private practice loan?

The purpose of the private practice loan is to assist NHSC scholarship recipients in establishing private full-time clinical practices in designated health manpower shortage areas.

§ 23.23 Who is eligible to receive a private practice option loan?

(a) Eligibility for loans is limited to NHSC scholarship recipients who have completed at least 2 years of their serv-

ice obligations at a NHSC site. NHSC scholarship recipients remain eligible for loans under this subpart for 1 year after they have completed their service obligations at a NHSC site.

(b) Scholarship recipients who are in arrears 31 days or more on a Health Professions Student Loan (42 U.S.C. 294m *et seq.*), Health Education Assistance Loan (42 U.S.C. 294, *et seq.*), Nursing Student Loan (42 U.S.C. 297a *et seq.*), or any other Federally guaranteed or direct student loan are ineligible for this loan program.

(c) NHSC scholarship recipients who have received loans under either this subpart or subpart C of this part are ineligible for loans under this subpart.

§ 23.24 In what amounts are loans made?

The Secretary may make loans either in the amount of \$12,500, if the recipient agrees to practice in accordance with the loan agreement for a period of at least 1 year but less than 2 years, or \$25,000, if the recipient agrees to practice in accordance with the loan agreement for a period of at least 2 years.

§ 23.25 How will interest rates for loans be determined?

Interest will be charged at the Treasury Current Value of Funds (CVF) rate in effect on April 1 immediately preceding the date on which the loan is approved and will accrue from the date the loan funds are disbursed to the borrower.

§ 23.26 How is the loan repaid?

Payments shall be made at monthly intervals, beginning 1 month from the date of the loan disbursement, in accordance with the repayment schedule established by the Secretary and set forth in the loan agreement. Only interest payments are required during the first 2 years. The repayment schedule may be extended in accordance with § 23.31(a).

§ 23.27 What happens if scheduled payments are late?

(a) Failure to make full payment of principal and/or interest when due will subject the borrower to the assessment of administrative costs and penalty

§ 23.28

charges, in addition to the regular interest charge, in accordance with 45 CFR part 30.

(b) Failure to make full payment of principal and/or interest when due may result in the Secretary placing the borrower in default of the loan. See § 23.28(a).

§ 23.28 What events constitute default?

The following events will constitute defaults of the loan agreement:

(a) Failure to make full payment of principal and/or interest when due, and continuance of that failure for a period of sixty (60) days, or a lesser period of time if the Secretary determines that more immediate action is necessary in order to protect the interests of the Government.

(b) Failure to perform or observe any of the terms and conditions of the loan agreement and continuance of that failure for a period of sixty (60) days.

(c) The institution of bankruptcy proceedings, either voluntary or involuntary, under any State or Federal statute, which may adversely affect the borrower's ability to comply with the terms and conditions of the agreement or the promissory note.

§ 23.29 What happens in the case of a default?

(a) In the event of default, the Secretary may declare the entire amount owed (including principal, accrued interest and any applicable charges) immediately due and payable. Collection of the amount owed will be made in accordance with 45 CFR part 30.

(b) The borrower is not entitled to written notice of any default and the failure to deliver written notice of default in no way affects the Secretary's right to declare the loan in default and take any appropriate action under the loan agreement or the promissory note.

(c) The failure of the Secretary to exercise any remedy available under law or regulation shall in no event be construed as a waiver of his or her right to exercise that remedy if any subsequent or continued default or breach occurs.

§ 23.30 May the loan be prepaid?

The borrower shall have the option to prepay the balance of any part of the loan, together with accrued inter-

42 CFR Ch. I (10–1–13 Edition)

est, at any time without prepayment penalty.

§ 23.31 May loan payments be postponed or waived?

(a) Whenever health, economic, or other personal problems affect the borrower's ability to make scheduled payments on the loan, the Secretary may allow the borrower an extension of time or allow the borrower to make smaller payments than were previously scheduled; however, interest will continue to accrue at the rate specified in the promissory note until the loan is repaid in full. The loan must be fully repaid within 10 years after it was made.

(b) No waiver, full or partial, of repayment of the loan will be granted; except that the obligation of a borrower to repay a loan shall be cancelled upon the death or total and permanent disability of the borrower, as determined by the Secretary.

(c) In order to make a determination under paragraph (a) or (b) of this section, the Secretary may require supporting medical, financial, or other documentation.

§ 23.32 What conditions are imposed on the use of the loan funds?

(a) The borrower must use the total amount of the loan to purchase or lease, or both, equipment and supplies, to hire authorized personnel to assist in providing health services and/or to renovate facilities for use in providing health services in his or her private practice. Equipment and supplies purchased and/or leased, personnel hired and facilities renovated shall be limited to the items requested in the loan application and approved by the Secretary.

(b) The borrower must expend the loan funds within 6 months from the date of the loan or within such other time as the Secretary may approve. Documentation of the expenditure of funds must be furnished to the Secretary upon request.

§ 23.33 What security must be given for these loans?

The Secretary may require the borrower to pledge to the Secretary a security interest in specified collateral.

§ 23.34 What other conditions are imposed?

(a) The borrower must sign a loan agreement describing the loan and practice conditions, and a promissory note agreeing to repay the loan plus interest.

(b) The borrower must agree to enter into private full-time clinical practice in a HMSA for the time period specified in the loan agreement.

(c) The borrower must accept assignment, for the time period specified in the loan agreement, under section 1842(b)(3)(B)(ii) of the Social Security Act as full payment for all services for which payment may be made under part B of title XVIII of that Act.

(d) The borrower must enter into an appropriate agreement, for the time period specified in the loan agreement, with the State agency which administers the State plan for medical assistance under title XIX of the Social Security Act to provide services to individuals entitled to medical assistance under the plan.

(e) During the time period specified in the loan agreement, the borrower must provide health services to individuals at the usual and customary rate prevailing in the HMSA in which services are provided; however, services must be provided at no charge or at a nominal charge to those persons unable to pay for these services.

(f) The borrower must keep and preserve all documents, including bills, receipts, checks, and correspondence which affect the operation of the private practice and the expenditure of loan funds for the period of the practice obligation specified in the loan agreement plus 3 years. Accounts will be maintained under one of the accounting principles identified by the Secretary in the loan agreement.

(g) The borrower must provide the Secretary and the Controller General of the United States, or their representatives, access during normal working hours to accounts, documents, and records for the purposes of audit or evaluation; and must permit the Secretary or his or her representative to inspect the private practice at reasonable times during the period of the practice obligation specified in the loan agreement plus 3 years. All infor-

mation as to personal facts and circumstances about recipients of services shall be held confidential, and shall not be divulged without the individual's consent except as may be required by law or as may be necessary to provide medical service to the individual or to provide for medical or fiscal audits by the Secretary or his or her designee with appropriate safeguards for confidentiality of records.

(h) For the entire period of loan repayment, the borrower must acquire, maintain, and when requested, must provide the Secretary with copies of policies of insurance on equipment and supplies in amounts adequate to reasonably protect the borrower from risk, including public liability, fire, theft, and worker's compensation.

(i) If the Secretary retains a security interest pursuant to § 23.33, the borrower must keep and preserve all documents which affect that security interest for the period of the loan repayment and allow the Secretary or his or her designee access, during normal working hours, to those documents.

(j) The borrower must maintain the loan proceeds in a separate account from his or her other transactions and must agree to draw upon this account and expend the loan proceeds in accordance with § 23.32.

(k) The Secretary may impose other conditions which he or she deems appropriate under law or regulation to protect the Government's interests.

§ 23.35 What criteria are used in making loans?

Approval of loan applications will be based on the criteria set forth below:

(a) The need in the HMSA for the applicant's health profession as determined under section 332 of the Act;

(b) The applicant's need for the loan funds; and

(c) The comments from State or local health professional societies on the appropriateness of the applicant's intended private practice; and

(d) The applicant's credit worthiness and projected financial ability to repay the loan.

Subpart C—Private Startup Loans

PART 24—SENIOR BIOMEDICAL RESEARCH SERVICE

§ 23.41 What conditions are applicable to loans under this subpart?

The regulations set out in subpart B of this part are fully applicable to loans awarded under section 338C(e)(1) of the Public Health Service Act, except as noted below;

(a) *Eligibility.* (1) In lieu of § 23.23(a), the following applies to loans made under this subpart:

(i) Eligibility for loans is limited to NHSC scholarship recipients who plan to enter private practice and have not begun fulfilling their scholarship service obligation or are currently fulfilling their scholarship service obligation under section 338B of the Act and have completed less than 2 years of this obligation.

(2) In lieu of § 23.23(c), the following applies to loans made under this subpart:

(i) NHSC scholarship recipients who have received loans under either this subpart or subpart B of this part are ineligible for loans under this subpart.

(b) *Loan amounts.* (1) In lieu of § 23.24, the following applies to loans made under this subpart:

(i) The Secretary may make loans in the amount of \$12,500 if the recipient agrees to practice in accordance with the loan agreement for a period of at least 1 year but less than 2 years or the remaining period of the borrower's NHSC scholarship service obligation, whichever is shorter.

(ii) The Secretary may make loans in the amount of \$25,000 if the recipient agrees to practice in accordance with the loan agreement for a period of at least 2 years or the remaining period of the borrower's NHSC scholarship service obligation, whichever is shorter.

(c) *Use of funds.* (1) In lieu of § 23.32(a), the following applies to loans made under this subpart:

(i) The borrower must use the total amount of the loan only to purchase or lease, or both, the equipment and supplies needed for providing health services in his or her private practice. Equipment and supplies purchased and/or leased shall be limited to the items requested in the loan application and approved by the Secretary.

[51 FR 31950, Sept. 8, 1986]

Sec.

24.1 Establishment.

24.2 Allocation.

24.3 Policy Board.

24.4 Eligibility.

24.5 Peer review.

24.6 Pay and compensation.

24.7 Performance appraisal system.

24.8 Applicability of provisions of Title 5, U.S. Code.

24.9 Removal from the Service.

24.10 Reporting.

AUTHORITY: Section 228(g) of the Public Health Service Act; 5 U.S.C. 301.

SOURCE: 61 FR 6557, Feb. 21, 1996, unless otherwise noted.

§ 24.1 Establishment.

There is established in the Public Health Service (PHS) a Senior Biomedical Research Service (SBRS) consisting of members the maximum number of which is prescribed by law.

§ 24.2 Allocation.

(a) The Secretary, within the number authorized in the PHS Act, shall determine the number of SBRS slots to be allocated to each participating Operating Division.

(b) The SBRS Policy Board may advise the Secretary to make adjustments to the allocation at any time.

(c) The majority of the SBRS allocation is to be reserved for recruitment. The remaining SBRS allocation may be used for the retention of current employees.

(d) SBRS slots will be used judiciously, resulting in SBRS appointments only where other senior-level appointing authorities are not sufficient to recruit or retain scientific talent.

(e) The Secretary will ensure that SBRS slots are used in support of high priority programs authorized by Congress and which directly support the research goals and priorities of the Department.

§ 24.3 Policy Board.

The Secretary or his/her designee shall establish an SBRS Policy Board to serve in an advisory capacity, recommending SBRS allocations among the participating Operating Divisions,